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PART II—Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संलग्न की जाती हैं जिससे कि यह असभा संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed
as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 24th March, 1972:—

I

BILL No. II OF 1972

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Twenty-third Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1972.

Short title.

2. In article 12 of the Constitution, the following words shall be added at the end, namely:—

Amend-
ment of
article 12..

“and also all authorities in charge of Co-operative Societies, Statutory Corporations, Government owned Companies and public sector undertakings set up or incorporated either by special or general enactment of Parliament or the Legislature of a State”.

STATEMENT OF OBJECTS AND REASONS

The State is extending its activities through Co-operative Societies, Statutory Corporations, Government-owned Companies and public sector undertakings. The employees of such institutions really stand on a par with employees under the Central and State Governments. Yet the former class of employees does not now get the service safeguards and protections constitutionally available under article 226 of the Constitution to the latter class of employees. The Supreme Court in its decisions in *Praga Tools Corporations vs. C. V. Imanual and others* (AIR 1969 Supreme Court 1306) and *Indian Airlines Corporation vs. Sukhdeo Rai* (AIR 1971 Supreme Court 1828) has held that as the Praga Tools Corporation, a public sector undertaking, incorporated under the Companies Act, 1956 and the Indian Airlines Corporation, incorporated by special statute, namely, the Air Corporation Act, 1953 do not constitute 'State' or 'other authority' and, therefore, writ jurisdiction cannot be extended to them. These decisions have created a lot of hardship and difficulty. So far as Co-operative Societies are concerned, there is no direct decision of the Supreme Court on the matter, and there are conflicting decisions of the High Courts as to whether writ jurisdiction can be extended to them or not. The employees of such institutions are, therefore, being arbitrarily treated. Employees of the Reserve Bank of India and the State Bank of India have also been subjected to arbitrary and discriminatory treatment and their approach to the High Court or the Supreme Court has proved in vain on account of the difficulty caused by the above and some other earlier decisions. Under these circumstances the difficulty can possibly be resolved by an appropriate amendments of Article 12 of the Constitution. Hence this Bill.

K. CHANDRASEKHARAN.

II

BILL No. I of 1972

A Bill further to amend the Constitution of India

Be it enacted by Parliament in the Twenty-third Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1972. Short title.
2. In article 16 of the Constitution, after clause (5), the following clause shall be inserted, namely:—

“(6) Nothing in this article shall affect the operation of any order issued by the State to protect the claims of the members of the Scheduled Castes and Scheduled Tribes, consistent with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with the affairs of the Union or of a State.”

Amendment of article 16.

STATEMENT OF OBJECTS AND REASONS

The scheme of the Constitution is such that it contains various provisions in relation to the affording of special protection and privileges to the Scheduled Castes and the Scheduled Tribes. Their claims to services and posts under the Central or State Governments are adequately safeguarded by the provision contained in article 335 of the Constitution. In accordance with the directive contained therein, the Central Government have issued various circulars, memos and orders suggesting anything from 2 to 10 per cent reservation of posts for the Scheduled Castes and the Scheduled Tribes in the various ministries of the Government of India and have also directed the State Governments and Public Sector Undertakings and statutory Corporations including the Reserve Bank of India to make such reservation of posts and further making of appointments on that basis. However, there has been very little implementation of these orders based on article 335. The employees belonging to the Scheduled Castes and Scheduled Tribes, particularly when their promotion chances were denied to them, have approached one or other of the High Courts in the country or the Supreme Court for the purpose of getting their special rights under article 335 maintained. However, some of the High Courts in the country, including the Kerala High Court, have held that the rights contained in article 335 of the Constitution are merely declaratory in nature and are not justiciable. This has caused a lot of difficulty to employees from amongst Scheduled Castes and Scheduled Tribes and also to applicants for employment from amongst these communities. The hardship can be removed only by an appropriate amendment of article 16. Clause (6) is, therefore, proposed to be inserted in this article.

Hence this Bill.

K. CHANDRASEKHARAN

B. N. BANERJEE,

Secretary.